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An Act To Clarify the State's Authority under Public Health Laws for Municipal Inspections of Establishments

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2491, sub-§12, as enacted by PL 1975, c. 496, §3, is repealed.

Sec. 2. 22 MRSA §2491, sub-§17 is enacted to read:

17. Health inspector. "Health inspector" means a person whose education and experience in the biological and sanitary sciences qualify the person to engage in the promotion and protection of the public health.

Sec. 3. 22 MRSA §2499, as amended by PL 2003, c. 673, Pt. X, §§4 to 6 and c. 689, Pt. B, §7, is further amended to read:

§ 2499. Municipal inspections

Notwithstanding any other provisions of this chapter, the department may issue a license to the establishments as defined in section 2491 on the basis of an inspection performed by ana health inspector who works for and is compensated by the municipality in which such establishment is located, but only if the following conditions have been met.

1. Adopted ordinances; code of standards. The municipality involved has adopted ~~a set of rules and regulations, ordinances or other~~ a code of standards for such ~~the establishments which has been approved by the department and which is~~ that are consistent with the ~~regulations~~ rules used by the department for the issuance of ~~such~~ licenses in effect at the time of inspection.

2. Qualified to make inspections. ~~No~~ A municipal ~~employed sanitarians shall~~ health inspector ~~may not~~ make inspections under the provisions of this chapter unless certified as qualified by the Commissioner of Health and Human Services.

3. Inspection to ascertain intent. The department may from time to time inspect such municipally inspected establishments to ascertain that the intent of these statutes is being followed.

4. Inspection reports. The ~~municipalities~~ municipality shall furnish the ~~department~~ electronic copies of its inspection reports ~~relating to said inspections on a monthly basis in a format and on a schedule determined by the department.~~

5. Charge. Municipalities may not charge the department for performing such inspections.

6. License fee. When a license is issued to an eating establishment licensed under section 2492 and located in a municipality to which authority to conduct inspection has been delegated by the department as specified in this section, the requirement for payment of a license fee by the establishment to the department as set forth in section 2494 must be waived. ~~However, the~~The licensee is required to pay the department a sum ~~not to exceed \$60~~set by department rules to support the costs of mailing and handling.

7. Licenses. Licenses issued under this section must be displayed, renewed and in every other way treated the same as licenses issued under this chapter on the basis of inspection by the department.

8. Certification. Certification of ~~municipally employed sanitarians shall~~health inspectors must be in accordance with standards set by the commissioner and ~~shall~~must be for a period of 3 years.

9. Delegation renewal. Beginning January 1, 2005, and every 3 years thereafter, the department shall review the ~~restaurant~~ inspection program of the municipalities to which authority to conduct inspections has been delegated. The process for the delegation of this authority and other such provisions describing the assignment of and removal of this delegation of authority must be established by rule ~~and must include, but not be limited to,~~. The department shall renew this delegation of authority if the municipality's inspection program has met the provisions of this section, including staff competency, enforcement and compliance history, inspection practices and reporting practices. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill establishes the authority of and clarifies that the Department of Health and Human Services is the preeminent authority for inspection and licensing of establishments in order to ensure statewide uniformity of health standards. The bill clarifies the terms and conditions under which the department may authorize municipalities to conduct inspections of establishments within the municipality.